



Report of the Chief Finance and Section 151 Officer

Cabinet - 14 February 2019

Council Tax Premiums in Wales

Purpose:	<p>To provide information and consider whether to continue to allow 50% Council Tax discounts on unoccupied and unfurnished properties after any statutory period of exemption expires.</p> <p>To provide information and to consider the discretionary powers to charge higher amounts of Council Tax (premiums) on certain properties provided for by the Housing (Wales) Act 2014.</p>
Policy Framework:	None.
Consultation:	Access to Services, Finance, Legal
Recommendation(s):	<p>It is recommended that:</p> <ol style="list-style-type: none">1) The details of the discretionary powers relating to Council Tax premiums, discretionary discounts for unoccupied and unfurnished dwellings and the related issues outlined in this report are noted.2) Cabinet agrees to undertake a consultation exercise in respect of the following:<ul style="list-style-type: none">• Whether to cease to allow a 50% Council Tax discount on dwellings that remain unoccupied and unfurnished after any statutory period of exemption has expired;• Whether to charge a Council Tax Premium of up to 100% for dwellings that have been unoccupied and unfurnished for more than 12 months (long term empty properties);• Whether to charge a Council Tax Premium of up to 100% for dwellings occupied periodically, commonly referred to as “second homes”.
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1.0 Background

1.1 The Local Government Finance Act 1992 gave local councils the discretion to allow a 50% Council Tax discount on properties that remain unoccupied and unfurnished after any statutory period of exemption expires. Swansea made a decision to allow such discounts in 2005 and continues to do so.

- A determination to vary or revoke the decision to allow this discount must be made before the start of the financial year to which the decision relates.

1.2 From 1 April 2017, S139 The Housing (Wales) Act 2014 (which amended the Local Government Finance Act 1992) gave local authorities in Wales the discretion to charge higher amounts (a premium), of up to an additional 100% on top of the standard rate of Council Tax, on second homes and long-term empty properties. Whether to charge a premium on second homes and/or long term empty homes is an individual decision to be made by each local authority and must be made by full Council.

- A decision to charge a premium on second homes must be made at least one full year before the beginning of the financial year to which the premium relates. In order to charge a premium from 1 April 2021, a billing authority must make a determination before 1 April 2020.
- A decision to charge a premium on long-term empty properties must be made before the start of the financial year to which the premium relates.

1.3 The Act also gave Welsh Ministers powers to make regulations setting out exceptions which prescribe certain classes of dwelling which may not be subject to a premium. These are set out in the Council Tax (Exceptions from Higher Amount Regulations) 2015 (see section 5 below).

1.4 Local authorities are able to retain any additional funds generated by implementing the premia and amendments to the calculation of the tax base have been made to facilitate this. However, authorities are encouraged by WG to use any additional revenue generated to help meet local housing needs, in line with the policy intentions of the premiums.

2. 50% discretionary discount

2.1 The decision whether to allow a 50% Council Tax discount on unoccupied and unfurnished properties after any period of statutory exemption expires is a local one made by each authority. Swansea made a decision to allow this discount in 2005 and this decision has not been reviewed for some years. As the potential implementation of Council Tax premia is being considered, this would be an opportune time to do so as the premiums and discretionary discount would be closely linked within Council Tax administration. There is currently no time limit on this discount. Other local authorities in Wales either allow the discount in the same way as Swansea, have never done so or have ceased doing so. In

addition, contact from Welsh Government at the end of 2018 indicated that, in future, they might cease making allowances in the Revenue Support Grant for Councils that allow this discount and so those continuing to do so would be penalised. From informal discussions with colleagues in other local authorities, a number are looking at ceasing to allow this discount with this change in mind.

- 2.2 In practice, if this discount was removed, once a statutory period of exemption expired, the standard 100% level of Council Tax would become payable immediately. This is a separate decision to the implementation of any premium although the outcomes could be linked when determining a taxpayer's liability.
- 2.3 In Swansea we currently have 2,206 unfurnished and unoccupied dwellings liable for a 50% Council Tax charge. Although dis-applying this discount would appear to provide an opportunity to raise additional revenue, if/when Welsh Government change how the Council Tax base is calculated, as we anticipate they will, then that will not be the case.

3. Dwellings Occupied Periodically (Second Homes)

- 3.1 At present this authority has determined under the Council Tax (Prescribed Classes of Dwellings) (Wales) Regulations 1998 that second homes (those that are furnished and no one's sole or main residence) are subject to a full Council Tax charge at the standard amount.
- 3.2 In relation to the premiums that can be applied to second homes, a second home is defined as a dwelling which is not a person's sole or main home and is substantially furnished. These dwellings are referred to in the Local Government Finance Act 1992 ("the 1992 Act") as inserted by the Housing (Wales) Act 2014, as dwellings occupied periodically and commonly referred to as "second homes".
- 3.3 In order for a premium to apply to a 'second home', a billing authority must make its first determination to charge a premium at least one year before the beginning of the financial year to which the premium will relate. In order to charge a premium for second homes from 1 April 2021, a determination, by full Council, would have to be made before 1 April 2020.
- 3.4 Swansea, like other authorities considering this decision, does not hold a definitive list of properties that would fall into the second home category. However, based on the details we currently hold, we estimate that there are 1811 properties that fall into the second home category within the Swansea area. Of these 1811 properties, around 566 have been in this category for under 12 months, 218 for between 12 and 24 months and 1027 for more than 24 months.
- 3.5 When reviewing the distribution of second homes throughout Swansea, as expected, 67% of second homes are based in the Gower, Swansea West and the Marina areas with the remaining properties being more evenly spread throughout the council area.

3.6 The current amount of council tax charged for 1811 second homes is

Estimated Additional Revenues That Could be Generated from Premiums on Second Homes					
Estimated Second Homes (i.e. not falling into an exception class) = 1,100					
Estimated Average charge = £1,681					
Current Revenue for 1,100 Properties	Current Revenue for 1,100 properties + 0% Premium	Current Revenue for 1,100 properties + 25% Premium	Current Revenue for 1,100 properties + 50% Premium	Current Revenue for 1,100 properties + 75% Premium	Current Revenue for 1,100 properties + 100% Premium
£1,849,100	£1,849,100	£2,311,375	£2,773,650	£3,235,925	£3,698,200
Estimated Difference in Additional Revenues					
Premium	0%	25%	50%	75%	100%
Gross estimated additional income	Nil	£462,275	£924,550	£1,386,825	£1,849,100
Less estimate reduction for excepted properties, moves into NDR and recovery rate say 20% (conservative estimate)	Nil	- £92,455	- £184,910	- £277,365	- £369,820
Net estimated additional income		£369,820	£739,640	£1,109,460	£1,479,280

£3,044,544. The amount of additional revenue which could be generated from a premium is difficult to accurately predict due to the uncertainty on whether properties would fall into an exception class. However the last census data revealed that there were 1100 second homes declared which indicates they would be “true” second homes. This would appear to tie in with the 1027 dwellings our records show as being second homes for over 2 years although some of the ‘holiday homes’ declared will have transferred from Council Tax to Non Domestic rates since the census was taken.

Taking an estimated 1100 second homes into account and an estimated average charge of £1681 (by dividing the 1811 second homes currently on the Council Tax system into the current £3m yield), the table below shows the additional revenue that could potentially be generated from a higher amount over a range of percentages on this deliberately conservative estimate of 1100 second homes.

4. Long term empty properties

4.1 The Housing (Wales) Act 2014 gives local authorities the discretion to charge a premium for dwellings that are considered to be long-term empty properties. The premium can be any percentage up to 100% and

can be applied as soon as the property satisfies the definition of a 'long term empty property' (after a year of being unoccupied/unfurnished) or from a later date as decided by the Council.

4.2 At present, properties that remain unoccupied and unfurnished after any statutory period of exemption from Council Tax expires are awarded a discretionary 50% discount without any time limit as explained in paragraph 2. One of the decisions from this report will be whether to cease to allow that discount on all properties.

4.3 However, even if Swansea decides to continue allowing that 50% discount, to implement a premium, the legislation requires that it be removed before a premium can be charged. In practice, this means that once a dwelling is classed as long-term empty property (after one year), the current 50% discount would be dis-applied, bringing the maximum Council Tax to the standard 100% level. A premium of up to a further 100% may then be added, bringing the maximum charge to 200% of the standard charge.

If Swansea decides to cease to allow the 50% discount (as mentioned in 2), then the charge would already be at the standard 100% rate at the point the premium was added.

4.4 At the 2018/19 Band D annual charge of £1,502.16 (for wards without community councils), a long-term empty dwelling would currently receive a discount of 50%, leaving £751.08 to pay. A determination to apply a maximum 100% premium would result in an un-discounted council tax charge of £1,502.16 to which a maximum 100% premium could be applied, making a total of £3,004.32 to pay.

4.5 A long-term empty property is one which is both unoccupied and substantially unfurnished for a continuous period of one year. The furnishing or occupation of a dwelling for one or more periods of six weeks or less during the year will not affect its status as a long-term empty dwelling. In other words, a person cannot alter a dwelling's status as a long-term empty dwelling by taking up residence or installing furniture for a short period.

4.6 Where a local authority makes a determination to charge a premium on long-term empty properties, it has the discretion to charge whatever percentage rate of premium it determines is appropriate (up to a maximum of 100%) and also the date from which that premium will apply. This is intended to enable local authorities to take a stepped approach with incremental increases applying over time.

4.7 In Swansea we currently have 2,206 unfurnished and unoccupied dwellings liable for a 50% Council Tax charge. The length of time those properties have been charged at that rate are as follows:

- 803 for less than 1 year
- 576 between 1 and 2 years
- 250 between 2 and 3 years
- 209 between 3 and 5 years
- 368 more than 5 years

4.8 The 2,206 dwellings generate an annual yield of £1,526,194 based on a 50% Council Tax charge. An average yield of £692 per empty dwelling. Based on a 100% charge they would yield an average of £1,384 per dwelling.

4.9 The table below provides estimated yields for premiums charged on long term empty properties with various options depending on when the premium is charged from and the amount of the premium charged. There are multiple potential combinations of when a premium could be charged from and how much that premium could be so only the most 'standard' options have been listed.

Estimated Additional Revenues That Could be Generated from Premiums on Long Term Empty Properties (values have been rounded)						
Yield	Dwellings Affected	100% charge	100%+ 25% premium	100%+ 50% premium	100%+ 75% premium	100%+ 100% premium
Average estimated Yield		£1,384	£1,730	£2,076	£2,422	£2,768
charge premium after 1 year	1,403	1,941,752	2,427,190	2,912,628	3,398,066	3,883,504
Potential maximum revenue gained			£485,438	£970,876	£1,456,314	£1,941,752
Less 20% for exceptions, recovery rate and other variables = net estimated income			388,350	776,701	1,165,051	1,553,402
charge premium after 2 years	827	£1,144,568	£1,430,710	£1,716,852	£2,002,994	£2,289,136
Potential maximum revenue gained			£286,142	£572,284	£858,426	£1,144,568
Less 20% for exceptions, recovery rate and other variables = net estimated income			228,914	457,827	686,741	915,654
charge premium after 3 years	577	£798,568	£998,210	£1,197,852	£1,397,494	£1,597,136
Potential maximum revenue gained			£199,642	399,284	£598,926	£798,568
Less 20% for exceptions, recovery rate and other variables = net estimated income			159,714	319,427	479,141	638,854
charge premium after 5 years	368	£509,312	£636,640	£763,968	£891,296	£1,018,624
Potential maximum revenue gained			£127,328	£254,656	£381,984	£509,312
Less 20% for exceptions, recovery rate and other variables = net estimated income			101,862	203,725	305,587	407,450

NB: The 20% adjustment is a conservative estimate

5.0 Exceptions to the Council Tax Premiums on Second Homes and Long Term Empty Properties.

5.1 A premium cannot be charged on a dwelling that falls within an exception as detailed in The Council Tax (Exceptions to Higher Amounts) (Wales) Regulations 2015. Broadly these are:-

Classes of Dwellings	Definition	Application
Class 1	Dwellings being marketed for sale – time limited for one year.	Second Homes and Long-Term Empty Properties
Class 2	Dwellings being marketed for let – time limited for 1 year	
Class 3	Annexes forming part of, or being treated as part of the main dwelling	
Class 4	Dwellings which would be someone's sole or main residence if they were not residing in armed forces accommodation	
Class 5	Occupied caravan pitches and boat moorings	Second Homes
Class 6	Seasonal homes where year-round occupation is prohibited	
Class 7	Job-related dwellings	

5.2 Some further guidance has been provided by WG for each exception class.

6. Potential issues arising from the application of Council Tax premiums in Swansea.

6.1 **Limited data** – the estimates of the potential revenue that might be raised by dis- applying the 50% discount for unoccupied and unfurnished properties and/or charging premiums are based on limited indicative data. Also, taking into account the 12 month lead-in time before a premium can be charged, coupled with external economic factors and the way in which owners of empty property might respond to these changes, it is difficult to accurately predict the level of income that the premia might bring or indeed the impact of these changes on housing availability.

6.2 **Consultation** – the previous consultation exercise in 2016 only looked at the potential for premiums to be applied to second homes. We would need to consult on the application of premiums and any change to the

current policy of allowing a 50% discount on unoccupied and unfurnished properties. The responses to the last consultation exercise highlighted concerns about the detrimental impact of charging premiums on tourism in the area and a reduction in the income generated from tourism. Other concerns raised were the effect on the housing market in Swansea and on people who use their second home when supporting sick or elderly relatives in the area or to maintain contact with family in Swansea.

- 6.3 **Use of the additional revenue raised** – Welsh Government advises that the discretion to charge a premium is intended to be a tool to help local authorities bring long-term empty homes back into use and meet local housing needs. Consideration should be given to how this will be done so the authority can provide justification for its decision.
- 6.4 **Additional resources/costs** - There will be a need to consider additional safeguards to mitigate tax avoidance or tax evasion as part of the implementation plan, ensuring owners are paying the right amount of council tax. Current inspection resources would not permit us to investigate/inspect dwellings where we suspect such avoidance is occurring with sufficient frequency. At least one additional permanent property inspector would be needed and a temporary post for the introduction period process to manage the implementation. These posts could potentially be funded from the additional income raised.
- 6.5 **Loss of Council Tax Revenue** – if a dwelling considered to be a second or holiday home satisfies the necessary criteria, it can become a commercial property and so subject to Non Domestic (Business) Rates (NDR). When Pembrokeshire implemented premiums on second homes, upwards of 600 properties were lost from Council Tax to Non-Domestic rates with the resulting loss of income to the Authority. We cannot estimate the extent to which this might happen in Swansea. Also, the date from which properties move into NDR can be backdated by the Valuation Office Agency and the authority might be required to refund payments of Council Tax for past years.
- 6.6 **Additional Council Tax burden to the authority** – a number of the properties currently recorded as empty for two years or more are Council owned and so the authority would have to meet the cost of the increased Council Tax on these properties.
- 6.7 **Negative publicity** – charging premiums and the removal of the 50% discretionary discount for unoccupied and unfurnished properties will no doubt be a controversial measure if implemented. It seems likely that the amount of appeals, complaints and calls to the Council Tax Section and member involvement in those queries would increase. Most likely these will have to be dealt with by senior staff.
- 6.8 **Tax Base Considerations** - Currently, allowances are made in the Council Tax base calculation for dwellings on which we allow the discretionary 50% discount for empty and unoccupied currently properties. Contact from Welsh Government at the end of 2018 indicated that, in future, they might cease making allowances in the Revenue

Support Grant for Councils that allow this discount and so those authorities continuing to do so would be penalised

In terms of the income from the premia, Welsh Government excludes this from Tax Base calculations, since it may be earmarked for particular use in bringing dwellings back into use following the policy intention behind the premium regulations.

- 6.9 **The amount of the premia** - Having spoken to colleagues in other authorities that have already implemented premia, we are advised that not setting the premiums for long term empty dwellings and second homes at the same level will result in a significant administrative challenges. Taxpayers will attempt to switch between the categories to try and achieve a lower charge but this can be prevented by charging the same for both categories.

7. Equality and Engagement Implications

- 7.1 The Council is subject to the Public Sector Equality Duty (Wales) and must, in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.

Our Equality Impact Assessment process ensures that we have paid due regard to the above.

- 7.2 A consultation exercise was undertaken in respect of the application of a Council Tax premium to second homes the last time the authority considered the issue in 2016. There was no consultation undertaken into the application of a Council Tax premium to long term empty properties or the disapplication of the discretionary 50% discount currently given to all unoccupied and unfurnished properties. A new consultation exercise covering all 3 issues would be needed and will be carried out at the beginning of 2019/20 so that an early decision can be made. An interim Equality Impact Assessment screening for this proposal has been completed (see Appendix 1) which will be repeated again after the consultation exercise and so will take into account the points raised by the consultation.
- 7.3 The proposal was previously screened in 2016 and at that time did not require an Equality Impact Assessment. The premiums would be based on the classification of a property as a second home/long term empty property and not the owner or other person. There is insufficient data available to accurately identify whether a particular group of people will be adversely affected, although it is expected a significant percentage of second homes will be owned by older people and the wealthier. If a decision is made to charge premiums on second homes, further information will be sought from owners and other sources to ensure exceptions are identified correctly.

Where a determination to charge a premium is made, a local authority must publish a notice of the determination in at least one newspaper circulating in its area within 21 days of the date of the determination.

8. Financial Implications

- 8.1 There are no financial implications other than those already set out in the report.

9. Legal Implications

- 9.1 There are no legal implications associated other than those already set out in the report.

Background Papers:

WG Guidance on the Implementation of the Council Tax Premiums on long Term Empty homes and Second Homes in Wales – issued in 2016.
<https://gov.wales/docs/dsjlg/publications/localgov/160122-guidance-implementation-of-council-tax-premiums-en.pdf>

Appendices:

Appendix 1 Interim EIA screening